

**MINUTES OF THE
BUSINESS AND LABOR INTERIM COMMITTEE**

Wednesday, May 15, 2013 – 9:00 a.m. – Room 210 Senate Building

Members Present:

Rep. James A. Dunnigan, House Chair
Sen. J. Stuart Adams
Sen. Deidre M. Henderson
Sen. Karen Mayne
Sen. John L. Valentine
Rep. Jacob L. Anderegg
Rep. Johnny Anderson
Rep. Jim Bird
Rep. Derek E. Brown
Rep. Susan Duckworth
Rep. Gage Froerer
Rep. Eric K. Hutchings
Rep. Dana L. Layton
Rep. Mike K. McKell
Rep. Dixon M. Pitcher
Rep. Marc K. Roberts

Rep. Jon E. Stanard
Rep. Mark A. Wheatley
Rep. Larry B. Wiley
Rep. Brad R. Wilson

Members Absent:

Sen. Curtis S. Bramble, Senate Chair
Sen. Gene Davis

Staff Present:

Mr. Bryant R. Howe, Policy Analyst
Ms. Christine R. Gilbert, Associate General Counsel
Ms. Patricia Owen, Associate General Counsel
Ms. Jennifer K. Christopherson, Legislative Secretary

Note: A list of other present, a copy of related materials, and an audio recording of the meeting can be found at www.le.utah.gov.

1. Committee Business

Chair Dunnigan called the meeting to order at 9:03 a.m. Sen. Bramble and Sen. Davis were excused from the meeting.

Mr. Howe distributed and gave a brief overview of "Open and Public Meetings Act." He summarized "JR4-2-102 – Request for Legislation," which was distributed in the mailing packet.

MOTION: Sen. Valentine moved to approve the minutes of the November 14, 2012, meeting. The motion passed unanimously with Sen. Adams, Sen. Mayne, Rep. Anderson, Rep. Bird, Rep. Hutchings, Rep. Layton, Rep. Pitcher, and Rep. Stanard absent for the vote.

Members of the committee and staff introduced themselves.

Chair Dunnigan discussed exemptions of the State Construction Code and the State Fire Code and said that during the 2013 interim the committee will consider the need for local flexibility in meeting fire code and building code requirements.

Mr. Scott Adams, Assistant Fire Chief, Fire Marshal, Park City Fire District, and Chairman, Unified Code Analysis Council, stated that the current codes are already at minimum standard and that it is important to maintain statewide uniformity to ensure consistency for the construction industry.

2. Review of Study Items for the 2013 Interim

Mr. Howe reviewed "Business and Labor Interim Committee 2013 Interim" study items, which were distributed in the mailing packet with an updated version distributed during the meeting.

Rep. Jim Nielson discussed the study item regarding 2013 General Session H.B. 312, "Manufactured and Mobile Home Amendments," and said that a process is needed to convert to real property certain personal property that is permanently affixed to land. He responded to questions from the committee.

3. Sunset Review of the Utah Injured Worker Reemployment Act

Ms. Owen distributed and discussed "Overview Legislative Oversight and Sunset Act" and "Sunset Review Process." She referred to "Title 34A, Chapter 8a, Utah Injured Worker Reemployment Act," which was distributed in the mailing packet, and stated that the last sunset review of this act was in 2009 when the Legislature voted to reauthorize the act for five additional years.

Mr. Jaceson Maughan, Deputy Commissioner and General Counsel, Utah Labor Commission, spoke in favor of reauthorizing the act with some changes to the reporting requirements. He stated that the Utah Labor Commission does very little with some of the reports it receives and would recommend eliminating some reporting requirements. Mr. Maughan said that before making a final recommendation to the committee, the commission will solicit input from the Workers' Compensation Advisory Council.

MOTION: Sen. Mayne moved to open a priority committee bill to address the sunset revision of the Utah Injured Worker Reemployment Act. The motion passed unanimously with Sen. Henderson, Rep. McKell, and Rep. Stanard absent for the vote.

4. Discretionary Clauses in Insurance Contracts

Ms. Tanji Northrup, Assistant Insurance Commissioner, distributed and discussed the presentation "Discretionary Clauses" and raised concerns regarding discretionary clauses. She responded to questions from the committee.

Mr. Greg Matis, Senior Counsel, Select Health, gave the presentation "The Case for Discretionary Clauses In ERISA Plans" and said that banning discretionary clauses is antibusiness. He responded to questions from the committee.

Rep. McKell asked Mr. Matis to provide the committee with additional information from Select Health on the number of appeals of denials of claims and the results of those appeals. Ms. Northrup indicated that the insurance department could request the information from multiple companies.

Mr. Mike Capener, citizen, Utah County, distributed "Testimony for Senate Hearing on Current Insurance Discretionary Authority Clauses." He described his own experience and said that disabled patients have died because of the adverse impact of insurance discretionary authority.

Ms. Sharon Mardula, citizen, described her experience and said that insurance company profits have dramatically increased in recent years.

Mr. Travis Wood, Executive Director, Utah Health Plans, said that Utah Health Plans opposes the elimination of discretionary clauses in insurance contracts.

Dr. Benita Quakenbush-Roberts, Ph.D., Founder and Chief Executive Officer, Avalon Hills, said that treatment is expensive and that patients should have the ability to appeal decisions by insurance companies that deny coverage.

Ms. Judy Bishop, National Multiple Sclerosis Society, distributed "National Multiple Sclerosis Society Prohibiting the Use of Discretionary Clauses." She spoke about one patient's experience and said that the patient's long-term disability coverage was eliminated based on the evaluation of a company physician in another state whom the patient had never met.

Mr. Kelly Atkinson, Executive Director, Utah Health Insurance Association, distributed "Utah Health Insurance Association Opposes a Ban on Discretionary Clauses" and said that the Utah Health Insurance Association believes that discretionary clauses keep the market competitive. He responded to questions from the committee.

Sen. Henderson requested that Mr. Atkinson provide data showing that banning discretionary clauses would increase premiums.

Mr. Lincoln Nehring, Voices for Utah Children, distributed a letter to the committee and spoke in support of eliminating discretionary clauses. He said that having an independent review is an important protection and that all decisions under a health care contract deserve that protection.

Ms. Marci Scott, attorney, referred to a letter she sent to the committee and spoke in support of prohibiting discretionary clauses. She stated that California did a study in 2005 and found that premiums would increase only 2-4% without discretionary clauses.

Mr. Danny Harris, Utah Director of Advocacy, American, said that the American Association of Retired Persons is not seeking special privileges and that many individuals find that their insurance coverage is only an illusion that will not pay a claim when needed.

Mr. Frank Piganelli, Regence Blue Cross Blue Shield of Utah, distributed "Discretionary Clauses are Well-regulated Pro-consumer Provisions in Insurance Contracts" and said that employers are the ones making the decisions. He responded to questions from the committee.

5. Alcoholic Beverage Control

Ms. Owen reviewed selected 2013 General Session alcohol related legislation.

Mr. Howe gave an overview of licenses and permits and distributed "License Quotas, Number of Licenses Issued, and Number of Available Licenses for Selected Retail Licenses as of May 15, 2013" and "Selected Highlights of Certain Licensing Requirements for Selected Retail Licensees."

Rep. Ryan D. Wilcox spoke about the importance of liquor licenses for many businesses and stated that current retail licensing requirements are unfairly applied. He responded to questions from the committee.

Rep. Froerer said that state alcohol regulations are complicated and unfair and that we need to deal with DUI violations separately and not as part of the alcohol licensing issue. He responded to questions from the committee.

Rep. Curtis Oda spoke about the current alcohol licensing system and said that 2013 General Session H.B. 350, "Amendments Related to Alcohol," would allow a beer distributor to deliver heavy beer

directly to a retail licensee and then report what was delivered to the Department of Alcoholic Beverage Control.

Sen. Valentine gave a history of Utah's alcohol legislation and said that some data has shown that there has been a jump in the selling of alcohol to minors and DUI crash and fatalities since 2009 when certain membership requirements for clubs were eliminated.

6. Other Items / Adjourn

Chair Dunnigan reminded the committee that the next meeting will be held on Wednesday, June 19, 2013, at 9:00 a.m.

MOTION: Rep. Pitcher moved to adjourn the meeting. The motion passed unanimously with Rep. Anderson, Rep. Bird, and Rep. Wiley absent for the vote.

Chair Dunnigan adjourned the meeting at 11:34 a.m.